

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4192 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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S L SOLANKI

Versus

SECRETARY, G.E.B.

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Appearance:

MR DS VASAVADA for Petitioners

MR MD PANDYA for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/10/1999

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner No.1, an officer of the Board, completed nine years services on 1st June, 1974. He opted for the benefit of the higher pay scale on completion of nine years service, under nine years services benefit scheme w.e.f. 26th June, 1974. However, he was given the benefit of higher pay scale

from 1st April, 1978. Hence, this special civil application before this court.

3. From the document, annexure 'D' filed by the respondent along with the reply to the special civil application I find that for the years 1967-78, 1969-70, 1970-71, 1971-72, 1973-74 and 1975-76, the petitioner was served with the adverse remarks. However, on the representation of the petitioner, the adverse remarks for the year 1973-74 were held to be only advisory. It is not borne out from this document that the adverse remarks for the year 1970-71 were communicated to the petitioner or not. However, the adverse remarks for the years 1971-72 and 1975-76 were communicated to the petitioner on 12th February, 1979 and 16th February, 1979 respectively. The petitioner claimed the benefits from 26th June, 1974 on which date if the matter would have been considered, these adverse remarks would not have been there. Otherwise also, the adverse remarks for the year 1971-72 have been communicated to the petitioner after about seven years and similar is the case with the year 1975-76 where it has been communicated after about three years.

4. So taking into consideration the totality of the facts of this case, the claim of the petitioner for higher pay scale on the basis of this material from 26th June, 1974 has arbitrarily been rejected. No other reason has been given out by the respondent.

5. As a result of the aforesaid discussion, this petition succeeds and it is hereby declared that the petitioner is entitled for the benefit of higher pay scale from 26th June, 1974. The petitioner shall be entitled for all the consequential benefits which follows therefrom. Rule is made absolute accordingly with no order as to costs.

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